



## **PLANNING COMMISSION AGENDA**

**Wednesday, November 18, 2015**

### **Regular Hearing**

**Commencing at 6:30 p.m.**

### **Council Chambers**

First Floor, City Hall Wing  
200 East Santa Clara Street  
San Jose, California

**Dori Yob, Chair**

**Ed Abelite, Vice Chair**

**Shiloh Ballard**

**Edesa Bit-Badal**

**Brian O'Halloran**

**Nick Pham**

**Michelle Yesney**

**Harry Freitas, Director**

**Planning, Building & Code Enforcement**

### NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Support Staff at 408-535-5695 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

### SUMMARY OF HEARING PROCEDURES

If you want to address the Commission, please fill out a speaker card located on the table near the Audio Visual Technician and deposit the completed card in the basket. There are also speaker cards in the back of the Chambers and at the side entrance.

The procedure for this hearing is as follows:

- After the staff report, applicants, and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes. Speakers using a translator will have four minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. Response to Commissioner questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezonings, prezonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permits is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

# **AGENDA**

## **ORDER OF BUSINESS**

### **WELCOME**

Welcome to the Planning Commission Meeting. Please remember to turn off your cell phones. The parking validation machine for the garage under City Hall is located at the rear of the Chambers.

### **SALUTE TO THE FLAG**

### **ROLL CALL**

### **SUMMARY OF HEARING PROCEDURES**

#### **1. PUBLIC COMMENT**

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Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

#### **2. DEFERRALS AND REMOVALS FROM CALENDAR**

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Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

*No Items*

### 3. CONSENT CALENDAR

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The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **C15-014.** Conventional Rezoning from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District to allow commercial use on a 0.17 gross acre site, located on the east side of S. Montgomery, between The Alameda and W. San Fernando Street (50 S. Montgomery St.) (Ilya Neizvestny, Owner). Council District 6. CEQA: Addendum to the San Jose Downtown Strategy 2000 Final Environmental Impact Report (Sch # 2003042127) and the Diridon Station Area Plan Final Environmental Impact Report (Sch# 2011092022). *Deferred from 6/24/15; Dropped and Re-Noticed from 08/26/15. PROJECT MANAGER, LEILA HAKIMIZADEH*

**Staff Recommendation:**

1. Consider and recommend adoption to the City Council of the Addendum to the San Jose Downtown Strategy 2000 Final Environmental Impact Report (Sch # 2003042127) and the Diridon Station Area Plan Final Environmental Impact Report (Sch# 2011092022), in accordance with CEQA.
2. Recommend to the City Council the approval of a Conventional Rezoning Ordinance as described above.

- b. **CP12-020 & T12-018 (Administrative Hearing).** A Conditional Use Permit (CP12-020) to allow the conversion of six single-family detached residences on one lot into six residential condominium units, and a Vesting Tentative Map (T12-018) to create six air spaces for condominium use, in the R-M Multiple Residence Zoning District on the 0.27 gross acre subject site, located at 36, 38, 40, 42, 44, and 46 North 11<sup>th</sup> Street (Clare and Roberta Caldwell et al, Owners). Council District: 3. CEQA: Exempt per CEQA Guidelines Section 15301(k) for Existing Facilities. **PROJECT MANAGER, JENNIFER PIOZET**

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Resolution and Vesting Tentative Map Resolution as described above.

- c. **CP15-002 (Administrative Hearing).** Conditional Use Permit to allow the removal of seven ordinance-size trees, the demolition of an existing 2,685 square-foot drive-through public eating establishment and the construction of a new 4,276 square foot public eating establishment (McDonald's) with a drive-through on a 0.72 gross acre site in the CN Neighborhood Commercial Zoning District, located on the northeasterly corner of South Bascom Avenue and Fruitdale Avenue (898 South Bascom Avenue) (Jones Tonnie J. Et Al, Owner). Council District 6. CEQA: Exempt per CEQA Guidelines Section 15303(c) for New Construction or Conversion of Small Structures. **PROJECT MANAGER, REBECCA BUSTOS**

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Resolution as described above.

- d. **CP15-060 (Administrative Hearing).** Conditional Use Permit to allow a brewery with an associated public eating and drinking establishment and the off-site sale of beer and wine in an existing 10,200-square foot building on a 0.24-gross acre site in the DC Downtown Primary Commercial Zoning District, located at 439 South 1<sup>st</sup> Street (Berg Richard P. Trustee & Et Al, Owner). Council District 3. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities. *Dropped and Re-Noticed from 11/04/15. PROJECT MANAGER, REBECCA BUSTOS*

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Resolution as described above.

- e. **PDC15-017.** Planned Development Rezoning from the A(PD) Planned Development Zoning District to the IP(PD) Planned Development Zoning District to allow uses of the IP Industrial Park Zoning District and miniwarehouse/ministorage uses on an approximately 1.25 gross acre site, located at 1785 Oakland Road (Union Carbide Industrial Gases Inc., Owner). Council District: 4. CEQA: Addendum to the North San Jose Development Policies Final Program Environmental Impact Report (Resolution No. 72768). *PROJECT MANAGER, JENNIFER PIOZET*

**Staff Recommendation:**

1. Consider and recommend adoption to the City Council of the Addendum to the North San Jose Development Policies Final Program Environmental Impact Report (Resolution No. 72768), in accordance with CEQA.
2. Recommend to the City Council the approval of a Planned Development Rezoning as described above.

## **4. PUBLIC HEARING**

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Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. **CP14-070 (Administrative Hearing).** Conditional Use Permit to allow the expansion of a legal nonconforming 1,800 square foot drinking establishment for up to 23 seats, late-night use until 2:00 a.m., and an off-site parking agreement in the CP Commercial Pedestrian Zoning District on a 0.07-gross acre site located at 262 Keyes Street (Martin E. and Monica Adaro, Owners). Council District: 3. CEQA: Exempt per CEQA Guidelines Section 15270 for Projects which are Disapproved. *PROJECT MANAGER, LEA SIMVOULAKIS*

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Deny a Conditional Use Permit Resolution as described above.

## **5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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*No Items*

## **6. GOOD AND WELFARE**

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- a. Report from City Council
- b. Review and Approve Synopsis from [11-04-15](#)
- c. Subcommittee Formation, Reports, and Outstanding Business
- d. Commission Calendar and Study Sessions

## **ADJOURNMENT**

## **2015 PLANNING COMMISSION MEETING SCHEDULE**

<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Type of Meeting</u></b>	<b><u>Location</u></b>
<i>January 14</i>	<i>5:00 p.m.</i>	<i>Study Session: BART/VTa Planning</i>	<i>T-332</i>
January 14	6:30 p.m.	Regular	Council Chambers
January 28	6:30 p.m.	Regular	Council Chambers
February 11	6:30 p.m.	Regular	Council Chambers
February 25	6:30 p.m.	Regular	Council Chambers
March 11	6:30 p.m.	Regular	Council Chambers
March 25	6:30 p.m.	Regular	Council Chambers
April 8	6:30 p.m.	Regular	Council Chambers
April 22	6:30 p.m.	Regular	Council Chambers
<i>May 6</i>	<i>5:00 p.m.</i>	<i>Capital Improvement Program</i>	<i>Council Chambers</i>
May 6	6:30 p.m.	Regular	Council Chambers
<i>May 13</i>	<i>5:00 p.m.</i>	<i>Study Session: Noise Studies</i>	<i>T-332</i>
May 13	6:30 p.m.	Regular	Council Chambers
May 20	6:30 p.m.	Regular	Council Chambers
<i>June 10</i>	<i>5:00 p.m.</i>	<i>Study Session:</i>	<i>T-332</i>
		<i>Employment Land Conversions in San Jose</i>	
June 10	6:30 p.m.	Regular	Council Chambers
<i>June 24</i>	<i>5:00 p.m.</i>	<i>Study Session:</i>	<i>T-332</i>
		<i>Employment Land Conversions in San Jose (continued from 6/10/15)</i>	
June 24	6:30 p.m.	Regular	Council Chambers
July 8	6:30 p.m.	Regular	Council Chambers
July 22	6:30 p.m.	Regular	Council Chambers
August 12	6:30 p.m.	Regular	Council Chambers
August 26	6:30 p.m.	Regular	Council Chambers
September 9	6:30 p.m.	Regular	Council Chambers
<i>September 18</i>	<i>8:30 a.m.</i>	<i>Planning Commission Retreat</i>	<i>T-664</i>
September 23	6:30 p.m.	Regular	Council Chambers
October 7	6:30 p.m.	Regular	Council Chambers
October 21	6:30 p.m.	Regular and General Plan	Council Chambers
<i>November 4</i>	<i>5:00 p.m.</i>	<i>Study Session:</i>	<i>T-332</i>
		<i>General Plan Annual Review Report</i>	
November 4	6:30 p.m.	Regular and General Plan	Council Chambers
November 18	6:30 p.m.	Regular	Council Chambers
December 2	6:30 p.m.	Regular	Council Chambers
December 9	6:30 p.m.	Regular	Council Chambers

## ABOUT THE PLANNING COMMISSION

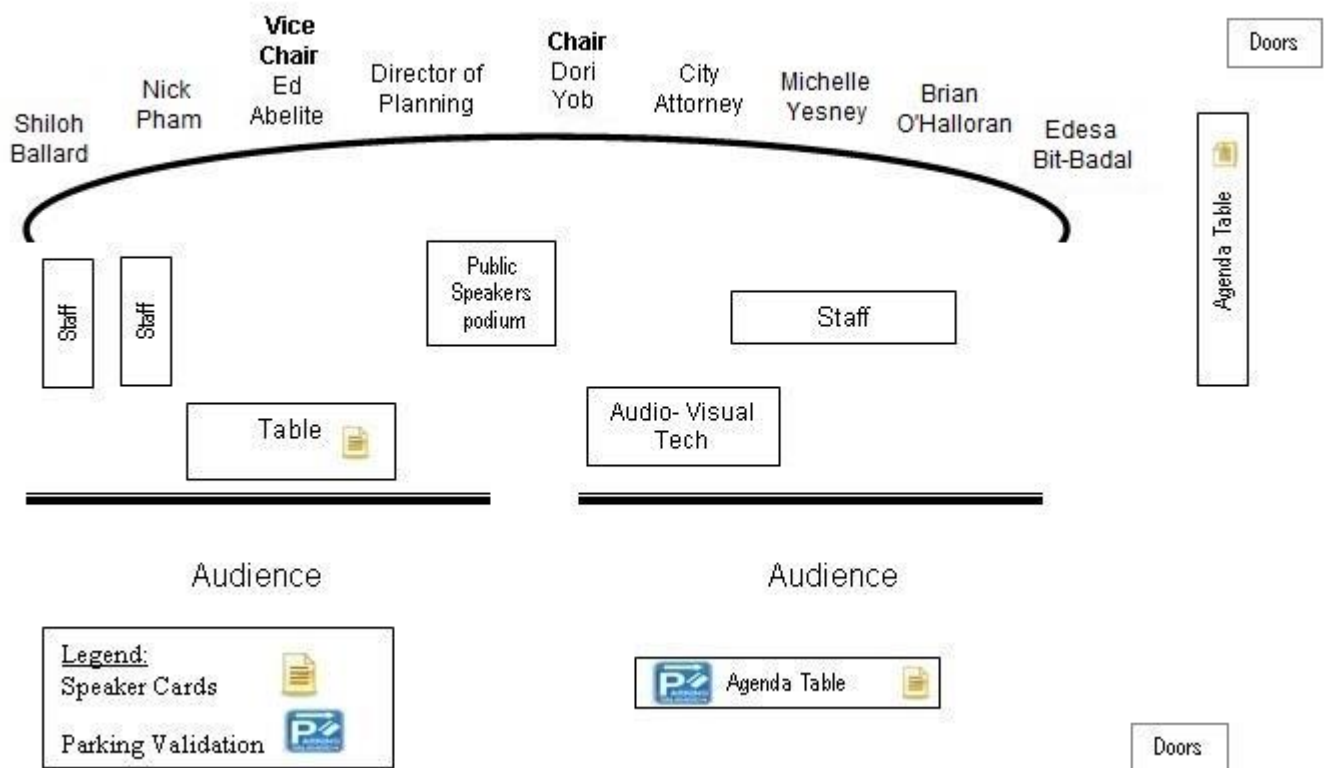
The Planning Commission is a seven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine to proceed with remaining agendized items past 11:00 p.m., or to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

### Seating Chart within the City Council Chambers:





The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?nid=1764>

**The City of San Jose is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. The City Code of Ethics may be viewed on-line at <http://www.sanjoseca.gov/DocumentCenter/View/3818>**

All public records relating to an open session item on this agenda, which are not exempt from disclosure, pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Planning Commission hearings are video recorded and broadcasted live. To view the live broadcast or past hearing recordings go to the Internet website: <http://www.sanjoseca.gov/index.aspx?nid=3431>

If you have any agenda questions, please contact Support Staff at (408) 535-3505 or email. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

#### **FREQUENTLY USED ABBREVIATIONS**

<b>CEQA</b>	California Environmental Quality Act
<b>CP</b>	Conditional Use Permit
<b>DA</b>	Development Agreement
<b>PD</b>	Planned Development Permit
<b>PDC</b>	Planned Development Zoning

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners, or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.